

Court Exhibit 9
9/7/2012

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CIRO CHARLES HICKS,

Plaintiff,

11 Civ. 8158 (KBF)

-against-

VANE LINE BUNKERING, INC.,
and the TUG PATRIOT, In Rem,

Defendants,

-----X

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED SEP 26 2012

VERDICT FORM

SEVEN JURORS MUST AGREE TO THIS VERDICT; ONE MAY DISAGREE.

Part I:

1. Negligence

- a. Did the plaintiff prove by a preponderance of the evidence that the defendant was negligent?

YES _____ NO ✓

If your answer is "yes," proceed to (1)(b) below. If your answer is "no," you should proceed to Question 2.

- b. Did the plaintiff prove by a preponderance of the evidence that the defendant's negligence played any part, no matter how slight, in causing the plaintiff's injury?

YES _____ NO _____

Proceed to Question 2.

2. Seaworthiness Claim

- a. Did the plaintiff prove by a preponderance of the evidence that the Tug PATRIOT was unseaworthy?

YES _____ NO ☒ _____

If your answer is "yes," proceed to (2) (b) below. If your answer is "no," move to Part II.

- b. Did the plaintiff prove by a preponderance of the evidence that an unseaworthy condition of the ship, its equipment or crew played a substantial part in causing an injury to plaintiff?

YES _____ NO _____

Proceed to Part II.

Part II: If you did not answer "Yes" for either 1(b) or 2(b), you should proceed to Part III. If you answered "yes" to either questions 1(b) or 2(b), then continue to Question 3.

3. Comparative Negligence

- a. Did the defendant prove by a preponderance of the evidence that plaintiff was himself negligent?

YES _____ NO _____

If your answer is "yes," proceed to 3(b) below. If your answer is "no," proceed to Part III.

- b. Did the defendant prove by a preponderance of the evidence that the plaintiff's negligence played a part in bringing about his own injury?

YES _____ NO _____

If your answer is "yes," proceed to 3(c) below. If your answer is "no," proceed to Part III.

c. What is the percentage of fault attributable to each party's negligence?

Answer in Terms of Percentages

The Defendant _____ %

The Plaintiff _____ %

(Note: The total of the percentages given in your answer should equal 100%).

Proceed to Part III

Part III:

4. Maintenance and Cure

a. Do you find that the plaintiff is entitled to be paid maintenance payments in addition to what he has already been paid, for any time from April 22, 2009 to present?

YES ☒ NO ☐

b. Do you find that the plaintiff is entitled to be paid future Maintenance and Cure? If yes, on what date does the defendant's obligation to provide Maintenance and Cure cease?

YES ☒ NO ☐

If YES, on which date does the obligation end? 04/2013

c. Do you find that defendant's termination of payments of maintenance, and refusal to provide cure after May 2010 was unreasonable?

YES ☒ NO ☐

- d. Do you find that defendant's termination of payments of maintenance, and refusal to provide cure, or its failure to pay a higher rate for maintenance was willful and wanton?

YES



NO

Proceed to Part IV.

Part IV: You will now be asked to assess and state the amount of damages, if any, which the plaintiff has sustained as a result of the defendant's negligence, the unseaworthiness of the defendant's vessel, or the defendant's failure to provide Maintenance and Cure. If you decide not to make an award as to any particular item, please insert the word "none" in the appropriate space. (In making the determinations below, do not take into account the percentage set forth above; those calculations will be made by the Court.)

5. Please state the total amount of damages, if any, sustained by the plaintiff up to the date of your verdict as to each category below:

Answer only if you answered "Yes" to Question 1(b) or Question 2(b): Past lost earnings (including benefits) related to defendant's negligence or Unseaworthiness
\$ _____

Answer only if you answered "Yes" to Question 1(b) or Question 2(b): Unpaid medical expenses related to defendant's negligence or Unseaworthiness
\$ _____

Answer only if you answered "Yes" to Question 1(b) or Question 2(b): Past pain and suffering related to defendant's negligence or Unseaworthiness
\$ _____

6. Please state the total amount of damages to the plaintiff, if any, which will be incurred by him in the future:

Answer only if you answered "Yes" to Question 1(b) or Question 2(b): Future lost earnings (including benefits) related to defendant's negligence or Unseaworthiness \$ _____

Answer only if you answered "Yes" to Question 1(b) or Question 2(b): Future pain and suffering related to defendant's negligence or Unseaworthiness

\$ _____

7. Please state the total amount of damages to the plaintiff, if any, related to his claim for Maintenance and Cure:

Answer only if you answered "Yes" to Question 4(a): Past Maintenance payments

\$ 77,000

Answer only if you answered "Yes" to Question 4(a): Past Cure payments

\$ NONE

Answer only if you answered "Yes" to Question 4(c): Past pain and suffering related to an unreasonable termination of Cure payments

\$ 132,000

Answer only if you answered "Yes" to Question 4(b): Future Maintenance payments

\$ 16,000

Answer only if you answered "Yes" to Question 4(b): Future Cure payments

\$ 97,000

Answer only if you answered "Yes" to Question 4(c): Future pain and suffering related to an unreasonable termination of Cure payments

\$ NONE

Answer only if you answered "Yes" to Question 4(d):
Please state the total amount of punitive damages, if
any, that you award the plaintiff due to defendant's
willful and wanton conduct

\$ 123,800

TOTAL DAMAGES

\$ 445,000

Dated: SEPT 7, 2012
New York, New York

Thomas F. Sullivan
FOREPERSON

Thomas F. Sullivan
PRINT NAME

All jurors whose verdict this represents:

Thomas F. Sullivan Bitana Rivera Robert Pelosky
Jesus Viera Ann Plyler Pilar Diaz
Kadeem Richardson Maureen Sammel